

THE HONORABLE JOHN C. COUGHENOUR

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

YVETTE BAILEY,

Plaintiff,

vs.

ALPHA TECHNOLOGIES INCORPORATED,
a Washington corporation; ALTAIR
ADVANCED INDUSTRIES, INC., a
Washington corporation; ABC, Inc. 1-10,
defendant corporation(s) whose name(s) is/are
unknown; FREDERICK KAISER and “JANE
DOE” KAISER, and the marital community
comprised thereof; and GRACE BORSARI and
“JOHN DOE” BORSARI, and the marital
community comprised thereof,

Defendants.

NO. 2:16-cv-00727-JCC

**DECLARATION OF WILLIAM J.
KIM IN SUPPORT OF
PLAINTIFF’S MOTION TO
COMPEL**

I, William J. Kim, states and declares as follows:

1. I am one of the attorneys of record for Plaintiff Yvette Bailey (“Bailey”) in
this matter.

DECLARATION OF WILLIAM J. KIM IN
SUPPORT OF PLAINTIFF’S MOTION TO
COMPEL – 1

Case No. 2:16-cv-00727-JCC

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1 2. I am over the age of majority, am competent to testify in this manner, and
2 the following is based upon my personal knowledge.

3 3. Bailey served her first set of discovery requests to Defendants on June 22,
4 2016. In those requests, she specifically requested that ESI be produced in its native
5 format, which is how ESI is maintained in the ordinary course of business. Attached as
6 **Exhibit A** are true and accurate copies of Plaintiff's First Set of Interrogatories and
7 Requests for Production to Defendant Alpha Technologies, Inc. Attached as **Exhibit B** are
8 true and accurate copies of Plaintiff's First Set of Interrogatories and Requests for
9 Production to Defendant Altair Advanced Industries, Inc. Attached as **Exhibit C** are true
10 and accurate copies of Plaintiff's First Set of Interrogatories and Requests for Production
11 to Defendant Frederick Kaiser. Attached as **Exhibit D** are true and accurate copies of
12 Plaintiff's First Set of Interrogatories and Requests for Production to Defendant Grace
13 Borsari.

14 4. Defendants provided answers and production of documents on July 22,
15 2016. Attached as **Exhibit E** are true and accurate copies of Responses and Objections to
16 Plaintiff's First Set of Interrogatories and Requests for Production to Defendant Alpha
17 Technologies, Inc. Attached as **Exhibit F** are true and accurate copies of Responses and
18 Objections to Plaintiff's First Set of Interrogatories and Requests for Production to
19 Defendant Altair Advanced Industries, Inc. Attached as **Exhibit G** are true and accurate
20 copies of Responses and Objections to Plaintiff's First Set of Interrogatories and Requests
21 for Production to Defendant Frederick Kaiser. Attached as **Exhibit H** are true and accurate
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DECLARATION OF WILLIAM J. KIM IN
SUPPORT OF PLAINTIFF'S MOTION TO
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1 copies of Responses and Objections to Plaintiff's First Set of Interrogatories and Requests
2 for Production to Defendant Grace Borsari.

3 5. The parties conducted a discovery conference pursuant to Fed. R. Civ. P.
4 37(a)(1) and W.D. Wash. LCR 37.1 on September 14, 2016 regarding the format ESI
5 should be produced. To convey the importance of native file production, Plaintiff's
6 retained computer forensic expert Ms. Allison Goodman was present during the
7 conference. Aside from certain documents such as excel or PowerPoints, Defendants
8 refused to produce in native as requested.

10 6. The parties conducted a second discovery conference pursuant to Fed. R.
11 Civ. P. 37(a)(1) and W.D. Wash. LCR 37.1 on October 14, 2016 to discuss Defendants'
12 objections and responses to Plaintiff's discovery requests. With respect to Interrogatory
13 No. 15 which asked identification of all lawsuits, Plaintiff asked Defendants to disclose the
14 number of lawsuits to consider narrowing down the request. Defendants did not disclose
15 the number. Defendants then restated their arguments in a letter dated November 2, 2016
16 via letter. Attached as **Exhibit I** are true and accurate copies of letter correspondence from
17 Defendants' counsel indicating their final positions regarding their discovery responses
18 and objections.

21 7. On December 15, 2016, Defendants Alpha and Altair supplemented their
22 responses. Attached as **Exhibit J** are true and accurate copies of Supplemental Responses
23 and Objections to Plaintiff's First Set of Interrogatories and Requests for Production to
24 Defendant Alpha Technologies, Inc. Attached as **Exhibit K** are true and accurate copies of
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DECLARATION OF WILLIAM J. KIM IN
SUPPORT OF PLAINTIFF'S MOTION TO
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1 Supplemental Responses and Objections to Plaintiff's First Set of Interrogatories and
2 Requests for Production to Defendant Altair Advanced Industries, Inc.

3 8. Even after the parties' discovery conferences, multiple e-mail exchanges
4 regarding the format of ESI production had occurred. Attached as **Exhibit L** are true and
5 accurate copies of e-mail correspondence regarding ESI format production.
6

7 I certify (or declare) under penalty of perjury under the laws of the State of
8 Washington and the United States of America that the foregoing is true and correct.
9

10 DATED this 26th day of April, 2017 at Seattle, Washington.

11 *s/William J. Kim*

12 William J. Kim
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DECLARATION OF WILLIAM J. KIM IN
SUPPORT OF PLAINTIFF'S MOTION TO
COMPEL – 4

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CERTIFICATE OF SERVICE

I certify that on April 26, 2017, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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Attorneys for Defendants

I certify under penalty of perjury that the foregoing is true and correct.

/s/ Angela Tracy
Angela Tracy, Legal Assistant